

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Conservation and Resource Enforcement
Honolulu, Hawaii

March 11, 2005

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

REGARDING: Request for approval to develop and pursue the “Enforcement” Chapter of the Statewide Comprehensive BLNR Coastal Policy

Comprehensive Coastal Policy

It is an objective of the Department of Land and Natural Resources to foster a Statewide Comprehensive Coastal Policy to improve overall protection and management of Hawaiian natural and cultural resources. This effort is intended to produce a unified vision for future actions by government as a whole.

Rather than confront the daunting task of an overall, comprehensive policy in a single effort, the proposed policy can be broken down into component “Chapters” and the respective stakeholder groups can address each chapter.

The key is the understanding that the management and regulation of the State’s natural resources is not solely the responsibility of the DLNR. There are other private, county, state and federal agencies that participate in this effort.

As each Chapter is developed, respective stakeholder groups, including DLNR line divisions, such as the Office of Conservation and Coastal Lands (OCCL), Aquatic Resources (DAR), Boating and Ocean Recreation (DOBOR), Conservation and Resources Enforcement (DOCARE) and Historic Preservation (SHPD), as well as others associated with coastal concerns, will participate in the development of these issues.

One concurrent theme throughout this chapter concerns issues of government responsibility, education and outreach, intergovernmental cooperation and the marshalling of resources necessary to accomplish these objectives. A second concurrent theme concerns the need for each individual to take the initiative to protect our natural resources and to use these limited resources wisely.

The Coastal Policy encompasses many different and complex issues. Because of these issues, we are proposing that the proposed management initiatives be integrated within “Chapters” and “Sub-Chapters” of the overall Coastal Policy.

The Changing Shoreline

- Coastal hazard mitigation
- Shoreline armoring
- Erosion management
- Coastal characteristics

Public and Private Improvements

- Encroachment onto public property
- Coastal building setbacks
- Shoreline certification
- Coastal density
- Construction guidelines

User Conflicts

- Native Hawaiian traditional and cultural rights
- Public access
- Capacity concerns
- Commercial activities
- Conflicts between & within user groups
- Cruise ship management

Near shore water concerns

- Water Quality
- Fishing
- Ballast water, hull-fouling & waste disposal from ships
- Marine ecosystem management
- Cage aquaculture
- Coastal islands, wetlands, dunes, estuaries and streams

Resources - Jurisdiction - Outreach

- Enforcement
- Funding alternatives
- Planning
- Permitting
- Education

At the January 28, 2005 BLNR meeting DLNR-OCCL, presented the first “chapter” of DLNR’s Coastal Policy, which was a request for approval to pursue a statewide comprehensive BLNR Coastal Policy. With the approval of this first chapter, the Board authorized the Department, starting with OCCL, to proceed with the formulation of a comprehensive Coastal Policy, starting with an Integrated Shoreline Policy for the State of Hawaii and authorized OCCL to work directly with the Hawaii Ocean and Coastal Council, County agencies and other agency stakeholders on the development of a policy to protect beaches and coastal communities from the negative impacts of erosion and other coastal hazards.

At the same meeting, DLNR-DAR presented a “chapter” on Marine Protected Areas and Marine Managed Areas. The BLNR approved the Department’s proposed definitions of marine protected areas and marine managed areas and approved, in concept, the suggested framework presented. Further, the Board authorized the Department to conduct a public process, including public meetings, to seek additional input, with significant stakeholder participation, into the proposed definitions and marine managed area framework.

More recently at the February 25, 2005 BLNR meeting, DLNR-DOBOR brought before the board a submittal on user conflict and ocean recreation. This submittal addressed how the department can better address user conflicts and solicit community input to develop tools to better manage coastal and ocean resources. The Board approved their request to conduct a public process to address user conflicts and capacity issues related to ocean recreation and authorized the department to issue concession agreements for various ocean related activities as immediate management tools.

This submittal focuses on enforcement and outreach activities within DLNR. Instead of focusing solely on the enforcement side, it is DLNR's hope that through added outreach, education and cooperation with other agencies, the department will be able to prevent incidents from occurring before enforcement action is needed.

Background

DLNR's Division of Conservation and Resources Enforcement (DOCARE) has primary responsibility for resource enforcement in the State, and therefore is the lead division for this submittal. DOCARE's overall mission is to promote the safe and responsible use of Hawaii's natural resources. The program objectives are:

1. In partnership with others, to help lead the citizens of Hawaii in developing and maintaining a tradition of ethical use, stewardship and sustainability of our land and natural resources.
2. To educate and inform citizens and visitors alike of the responsible use of Hawaii's natural resources and the application of natural resource laws, including Hunter Education.
3. In partnership with others, to educate the public in the safe and responsible use of firearms, boats and personal watercraft.
4. To ensure the right of all persons to safely use, share and enjoy Hawaii's natural resources through firm, fair and effective law enforcement.

As stated earlier in the submittal, the department and DOCARE's preference is to foster voluntary compliance and prevent violations from occurring, before they lead to enforcement action. When a violation occurs, the damage to our natural and cultural resource may make recovery difficult or, in some cases, impossible. The department believes that the first step in preventing these violations from occurring is to educate the public about our natural resources.

Public Outreach

The department realizes the value of outreach to the public. Many local residents and visitors alike are unaware of how their actions can effect the natural and cultural environment around them. In most cases once people are educated as to what the rules are, and why they are in place, they are willing to comply.

“Ho’okuleana”

“Ho’okuleana” means “to take responsibility;” it is the theme of DLNR’s outreach efforts that strive to involve communities and constituencies in assisting in the management of our natural and cultural resources.

“Ho’okuleana” spreads the message that our natural and cultural resources are not limitless, nor are they resilient; they are scarce and fragile. Each of us shares in the responsibility of wise stewardship and conservation of our resources.

In a single word, “Ho’okuleana” is focused on “responsibility” - our individual and collective responsibility to:

- Participate - rather than ignore
- Prevent - rather than react
- Preserve - rather than degrade

“Ho’okuleana” reinforces the importance of partnerships and working together. “Ho’okuleana” is founded on the principle that partnerships are priorities.

No one constituency, no one community, no one resource management entity has the sole responsibility for and jurisdiction over the resources. Each of us shares the responsibility for the protection and preservation of our natural and cultural resources. DLNR strives to promote responsible use, understanding and respect for Hawaii’s natural and cultural resources.

Our natural and cultural resources are not just historic sites, oceans, streams, mountains, trees, birds and fish. They are the:

- Foundation of our quality of life
- Backdrop for our economy
- Our natural and cultural resources define Hawaii’s “sense of place.”

Mauka-Makai Brochures

Making public outreach a priority, the department has been developing mauka and makai brochures. These brochures, one highlighting the state’s mauka region, the other highlighting the makai region, serve as tools in summarizing both the natural and cultural importance of these regions (copies are attached).

These brochures are available to commercial tour operators for use as part of a natural and cultural briefing. The brochures will help set a sense of place for activities. For example a commercial kayak operator will be able to use the brochure to convey the importance of the ocean to the native Hawaiians as well as offer tips as to how the guests can help preserve and protect Hawaii’s ocean resources.

Education Centers

Environmental education centers are another means of reaching the community regarding wise use of Hawaii's natural resources. Over the past year, the BLNR has approved proposals for numerous environmental based education centers across the state. On Kauai, the Division of Aquatic Resources will be working towards the development of an education center at Wailua Reservoir, which will coincide, with a freshwater fishery and related activities.

On Oahu, the Hawaii Nature Center currently operates an environmental education facility in Makiki that it recently expanded. In Kalihi Valley, Kokua Kalihi Valley recently signed a lease to renovate and expand a structure within Kalihi Valley for use as an education center. The Land Board authorized the division of State Parks to proceed with a RFI process a educational facility at Wahiawa Reservoir, which like the Wailua facility on Kauai would include fishing activities.

On the Big Island, the Land Board recently authorized DOFAW to proceed with a RFI process for development of environmental education facilities within the ahupua'a of Pu'u Wa'awa'a.

With the creation and expansion of these facilities, an increasing number of residents and visitors will be exposed to environmental education and related activities. DLNR also has the opportunity to showcase its recreation and conservation activities to a wider audience.

All of the potential educational facilities will also work with the state school system and related entities to integrate curriculum and related activities into school activities.

Community Meetings

Community meetings are another way the department can expand its presence in the community. On the Big Island, DOCARE officers hold community meetings to address publics concerns regarding illegal activities on state lands. These community meetings serve, as a way for DOCARE officers to interact with the public in a community setting. The officers offer advice and recommendations for residents and community member to be better able to handle situations when they arise. The meetings also offer residents the chance to voice their concerns and relay to the officers the issues, which they are facing in their particular community.

Theme Years

Another way the department continues to reach the public is through its public information office (PIO). The PIO office keeps the community aware of events and initiatives of the department through press releases and other outreach efforts.

One such effort is the creation of theme years, highlighting activities within a particular division for an entire year. 2003 was deemed the "Year of the Hawaiian Forest" and DOFAW was able to use this designation to bring awareness to the community of the importance of the state's forest and watershed resources.

Similarly, 2004-2005 were themed, “A Living Reef Gives Our Islands Life”. DAR took the lead in creating publications and related events throughout the year, focusing on the importance of coral reefs. DAR was also able highlight their division and gain added exposure to all of their programs, no just those related to coral reefs.

The department intends on continuing with this program and is in process of beginning its next theme year, highlighting the Division of Historic Preservation.

Public Service Announcements

Besides continuing with its successful outreach programs the Department, through the Public Information Office, will expand upon the development and implementation of Public Service Announcements (PSA) through various means of media including television, radio and print. These PSAs will help to educate the public regarding resource protection, rules and ways in which the public can become evolved in outreach activities.

By increasing DLNR’s presence in the media, it is envisioned that the public will become more aware of what functions the department serves and ways in which they can help. Most of the Divisions within DLNR will be included in the PSAs. Divisions will be able to highlight their accomplishments and spread the word on how they are working to preserve and protect Hawaii natural and cultural resources.

Interagency Cooperation

In keeping with the “Ho’okuleana” theme of responsibility, partnerships and working together, DLNR has made expanding partnerships a priority.

All of DLNR’s 11 divisions are involved in partnerships, which occur on a multitude of levels including at the Federal, State, County, and community level.

DOCARE partners with many varied counterparts, communities and constituencies on enforcement issues, outreach and prevention. Many times these partnerships give agencies including DOCARE, the ability to pool resources to better enforce, educate and manage over lapping jurisdictions.

Other divisions including DOFAW and DAR are involved in these same types of partnerships with other agencies. The department would like to take a more proactive approach in seeking out formalized partnerships to help facilitate cooperation between DLNR and other entities.

“Mauka-Makai Watch” Program

Over the years many divisions within DLNR have instigated programs to involve the communities in resource protection and management. Up until now, these various programs worked interdependently, and although very successful, lacked a coordinated effort by the department.

Recently, interest in these types of programs had increased as people begin to realize that DLNR does not have the resources to “be everywhere, all the time”. Communities are becoming aware of their ability to take more active roles in resource protection.

Thus, the department formalized the Mauka-Makai Watch program. This program will bring together all of the previously established programs and enhance and expand their efforts to more actively involve communities and the department in community resource protection.

The Mauka-Makai Watch concept is very similar to the Neighborhood Watch Program in which community members act as the “eyes and ears” for the Police Department to help deter, identify, and report crimes. When Neighborhood Watch members observe a crime or suspicious behavior, they have a direct line to the Police Department and, depending on the situation, the Police can choose to send out patrol officers.

Neighborhood Watch volunteers understand that the active participation of neighborhood residents is a critical element in community safety. Similarly, Mauka-Makai Watch Volunteers have a presence in our natural and cultural resources areas to help act as the eyes and ears for resource managers and regulators.

The Mauka-Makai Watch concept is based on the idea that the people who use, live closest to or are involved with the resources are in the best position to help in ensuring compliance with resource protection and preservation.

Mauka-Makai Watch is based on the context that the active participation of communities and constituency groups is a critical element in community health and safety - not through vigilantism or exclusion, but simply through a willingness to help prevent wrong-doing through presence and education, look out for suspicious activity, monitor and care for the resources, and report inappropriate activity to law enforcement and to each other.

Mauka-Makai Watch involves communities assisting resource managers and regulators responsible for our natural and cultural resources. It is based on experience that Department of Land and Natural Resources (DLNR) has had with the Miloli'i community, with the assistance of The Nature Conservancy (TNC) and the Community Conservation Network (CCN), as well as with the Wai 'Opae community, both on the Big Island, to establish and pursue a Mauka-Makai Watch Program.

The Mauka-Makai Watch program is flexible and versatile; it can focus on marine and coastal related context under a “Makai Watch” reference, or it can center on forest, hunting or other inland issues under a “Mauka Watch” reference. Or, it can incorporate a broad, comprehensive network linking inland and coastal matters under a Mauka-Makai Watch.

The goal of the Mauka-Makai Watch Program is to help ensure that local community members are given accurate information about our resources and DLNR so they will support DLNR in natural and cultural resource enforcement, education, outreach, monitoring and surveillance to protect the resources.

There are several ways communities and non-governmental organizations (NGOs) can increase public compliance with the rules that are intended to protect our natural and cultural resources. It is generally accepted that compliance increases with increased:

- Public and constituency awareness of the condition of the resources in their area
- Opportunity for the public and constituencies to be meaningfully involved in how to protect the resources and to help government implement the management options
- Opportunity to help government agencies monitor the condition of the resources and the public's/constituencies' use of those resources
- Public and constituency awareness of the rules and why they are necessary to protect the resources

Active community assistance in resource management often results in locally-acceptable resolutions to resource management issues, increased protection and preservation, better monitoring and understanding of the condition of the resources, compliance with rules and greater capabilities within the community to assist in resource management decision-making.

Empowering local residents and resource users to help government manage resources will increase their feeling of responsibility and ownership in the future of local resources and result in their greater protection of the resources.

Community-supported natural and cultural resource protection and preservation programs represent a win-win opportunity. DLNR wants and needs citizens to take more personal responsibility for protecting the resources. Compliance increases with more community involvement.

The benefits of Mauka-Makai Watch are many. Through Mauka-Makai Watch, local communities gain a sense of pride and accomplishment as they play a stronger role by assisting in resource assessment, management and protection of our natural and cultural resources. Resource managers and enforcement personnel benefit from increased surveillance, outreach and education.

Mauka-Makai Watch serves as a vehicle in helping people "make a difference" in their own community. A goal of Mauka-Makai Watch is to help ensure that community members support DLNR and other resource managers and regulators in education, regulation, monitoring and observation to protect our natural and cultural resources.

As areas under Mauka-Makai Watch gain a reputation for increased attention, enforcement violations will likely be reduced and, as a result, the resources will be more fully protected and DLNR's workload in these areas will decrease. While there is still a long way to go to improve and expand the existing Mauka-Makai Watch program, together, we have set a good foundation for success.

DLNR is committed to expand the Mauka-Makai Watch program with the diversity of communities and constituencies throughout the State of Hawaii's. DLNR hopes that in doing so,

the department will help in connecting communities and constituencies with the resources that surround them.

Mauka-Makai Watch falls under DLNR's umbrella "Ho'okuleana" program to increase outreach and education efforts. "Ho'okuleana" is the theme of DLNR's outreach efforts that strive to involve communities and constituencies in assisting in the management of our natural and cultural resources. "Ho'okuleana" is a message that DLNR is, and will continue to be, a willing and able partner.

Taking Enforcement Actions to the Land Board for Processing

DLNR is a multifaceted department with each of its divisions governed by its own specific set of rules. These rules are tailored to the activities in which each division is involved. Contained within these rules are penalties and rules guiding prosecution and enforcement actions.

There are a variety of ways in which divisions can deal with violations. They include going through the state criminal court system, dealing with violations administratively and taking cases to the Land Board for action.

The first option has been the common process for most of DLNR's divisions. However, the Office of Conservation and Coastal Lands (OCCL) has been at the forefront of using both the administrative system, as well as taking violations before the Land Board. The division brings at least one violation to the board at every meeting.

Recently, other divisions within the department have begun bringing issues to the Land Board for processing as well. At the BLNR meeting on August 13, 2004, the Division of Forestry and Wildlife, Natural Area Reserve System brought before the Board a case involving an illegal kayak operation within the Ahihi Kinau Natural Area Reserve. The operator then asked for a contested case, which is currently being conducted.

At the February 25, 2005 BLNR meeting, DOFAW's Na Ala Hele Trails and Access System brought before the Board the case of an illegal trail tour operator at Manoa Falls Trail. The Board found the operator in violation and fined the alleged operator \$2,500 for violating commercial rules and not having the proper permits to operate.

One advantage of bringing issues before the land board is the exposure these cases have. A Land Board processes is an open meeting that the public is able to attend and testify at. Cases seem to receive more attention from the public and media when they are brought before the board rather than dealt with at the court level.

DLNR has been criticized for not taking action in the enforcement of its rules. The added exposure, issues before the BLNR bring, helps to get the message out to Hawaii's communities' that something is being done to address illegal activities, which happen under DLNR jurisdiction.

When people are aware that these issues are being dealt with, the department hopes it will act as a deterrent to others, not to violate the rules. Additionally this exposure can serve as an

educational opportunity for the public to be more aware of the rules and regulations which govern the state's natural and cultural resources.

RECOMMENDATION:

It is recommend that the Board of Land and Natural Resources authorize the department to:

1. Expand outreach and education efforts in a continued effort to deter natural resources related violations.
2. Depending on the scope and scale of alleged violations, encourage all divisions to bring violations before the Land Board for adjudication, rather than limiting prosecution to the criminal courts.
3. Expand the department's Mauka-Makai Watch program and work with other constituencies to coordinate with communities and individuals that wish to participate.
4. Continue to partner with other constituencies in outreach and resource protection and continue to formalize cooperative agreements between DLNR and other agencies.

Respectfully Submitted,

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APPROVED FOR SUBMITTAL:

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